

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
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In re: 20230930-DK-BUTTERFLY-1, INC. f/k/a Bed Bath & Beyond, Inc., <i>et.al.</i> , Debtors.	Chapter 11 Case No. 23-13359(VFP) (Jointly Administered)
MICHAEL GOLDBERG, as Plan Administrator for 20230930-DK-BUTTERFLY-1, INC. f/k/a Bed Bath & Beyond, Inc., Plaintiff, v. INTERNAL REVENUE SERVICE, an agency of the United States of America, Defendant.	Adversary Proceeding No. 24-01533-VFP

PLAINTIFF'S AGREED MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Plaintiff, Michael Goldberg, in his capacity as Plan Administrator (the “Plan Administrator” or “Plaintiff”) for 20230930-DK-Butterfly-1, Inc. f/k/a Bed Bath and Beyond, Inc.¹ and affiliated debtors (the “Debtors”), by and through undersigned counsel, moves the Court for entry of an order granting Plaintiff leave to file an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(2), made applicable to these proceedings by Federal Rule of Bankruptcy Procedure 7015. In support of this Motion, Plaintiff would show the Court as follows:

1. On August 16, 2024, Plaintiff filed his Complaint against Defendant, the Internal Revenue Service (“IRS”).

2. On October 18, 2024, the IRS filed its Motion to Dismiss (Adv. Doc. 14) Plaintiff’s Complaint.

3. After a hearing held on November 13, 2024, the Court entered an Order denying the Motion to Dismiss (Adv. Doc. 24) with prejudice for one portion of the Motion and without prejudice for another portion of the Motion.

4. After consultation with counsel for the IRS, Plaintiff agreed to file an amended complaint to address some of the issues raised in the Motion to Dismiss. The proposed amended complaint is attached hereto as **Exhibit A**.

5. Counsel for the Plaintiff consulted with counsel for the IRS who does not oppose the relief requested in this Motion.

WHEREFORE, Plaintiff, Michael Goldberg, as Plan Administrator, respectfully requests that the Court enter an order substantially in the form attached as **Exhibit B** granting Plaintiff leave to file his amended complaint and granting such other relief as the Court deems just and proper.

¹ Pursuant to the Certificate of Amendment of the Certificate of Incorporation of Bed Bath & Beyond, Inc. which was filed with the State of New York Department of State on September 21, 2023, the name of the entity formerly known as “Bed Bath & Beyond, Inc.” was changed to 20230930-DK-Butterfly, Inc.

Dated: February 11, 2025

/s/ Colin R. Robinson

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